IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 16968 of 2004

Between:

M. Sudarshan, S/o. M. Bhoomaiah,
Gram Panchayath, Mallial (under suspension),

Karimnagar District.

..... PETITIONER

AND

1. The District Collector (Panchayats), Karimnagar.
2. The Government of A.P. rep by its Secretary to Government,
   Panchayat Raj and R.D. Department, AP Secretariat,

Hyderabad.

3. Gaddam Sajan Kumar s/o Sri Ramulu, a/a 42 years,

Occ: Agriculture, R/o Mallial village and Mandal,

Karimnagar District.

R3 added as per order in WPMP30545/04 dt 18.2.2005

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Certiorari calling for the records relating to the impugned suspension orders passed by the first respondent vide his proceedings No. A1/2530/2004-PTs, dated 11-9-2004 and quash the same.

Counsel for the Petitioner: MR.S.SATYAM REDDY

Counsel for the Respondents: MR.A.SUDERSHAN REDDY

GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

The Court made the following:

ORDER:

Petitioner, who is the suspended Sarpanch of the Gram Panchayat, Mallial, filed this petition questioning his suspension.

After receiving a report from the Secretary, Mallial Grampanchayat complaining that some of the amounts collected by the then Junior Assistant of Mallial Grampanchayat towards tap connections deposits were misappropriated, District Panchayat Officer, Karimnagar, deputed a team consisting of four officials to conduct a house wise survey for arriving at the amount misappropriated. The said team, after conducting a survey, submitted a report that an amount of Rs.2,12,500/- collected from the 185 depositors towards tap connections, was not credited to the Grampanchayat accounts. On the basis of a report given by the Project Director, DRDA alleging that pension payable to all the 191 old age pensioners and 17 Weaver Pensioners, allotted to Mallial Gram Panchayat, is being released every month and due to the filling up of the death vacancies, due to the petitioner issuing identity cards ineligible persons, without approval by Nodal team, pension is being paid to 24 such ineligible persons, without the approval of Nodal team, and so a show cause notice dated 18.08.2004, was issued to the petitioner calling for the explanation. Petitioner submitted a reply dated 07.09.2004, denying the allegations made against him. Finding that the reply of the petitioner is not satisfactory and that his continuance as Sarpanch would be detrimental to the interests of the Gram Panchayat, petitioner was kept under suspension as per Section 249(6) of A.P. Grampanchayat Act, 1994 (the Act) and was directed to handover complete charge of his post to the Upasarpanch. Hence, this petition by the petitioner.

The contention of the learned counsel for the petitioner is that petitioner who is being elected as surpanch from more than 24 years, is sought to be kept under suspension only on political grounds on unsustainable ground, to put him to humility and to defame him. It is his contention that since petitioner does not handle the cash collected and since it is not even the case of the concerned authorities that petitioner

made any misappropriation of the amounts belonging to the gram panchayat and since the Secretary of the gram panchayat has to look after day to day administration and proper accounting of funds collected, instead of proceeding against the concerned employees who actually seem to have been involved in the misappropriation alleged, petitioner, who is not in any way connected with the collection and depositing of funds is being proceeded against with a malafide intention. It is the contention that petitioner did not issue any identity cards for the purpose of drawing pensions since he is not the authority to grant old age pension, but he merely forwarded the applications of 56 beneficiary selected by the Nodal team, for grant of old age pensions, and it is for the MPDO to check and sanction or reject pension to those persons, and since identification cards were issued only for the purpose of identification, order placing the petitioner under suspension is not sustainable and is liable to be quashed.

The contention of the learned Government Pleader is that in view of the report submitted by the MPDO pointing out the irregularities committed by the petitioner he was placed under suspension after following the procedure prescribed by Section 249(6) of the Act and since petitioner has an effective alternative remedy of revision this petition is not maintainable.

The contention of the learned counsel for third respondent, who got himself impleaded as a party to the Writ Petition by virtue of the order in W.P.M.P.No.30545 of 2004, is that in view of **PITLA USHANNA v. A.NARASA REDDY AND OTHERS** this petition is not maintainable.

As per my directions the learned Government Pleader produced the concerned file which I have gone through. It shows that petitioner issued some identity cards to some persons keeping the column relating to their ages blank, and that proceedings were initiated against the person who allegedly misappropriated the amounts of the gram panchayat also. So, prima facie, it cannot be said that protecting the people responsible, petitioner is being proceeded against, with a set purpose. Question whether petitioner committed any irregularity in issuing identity cards enabling persons to draw old age pensions is a matter to be enquired into.

Since the order of suspension was passed against the petitioner after issuing a show cause notice under Section 249(6) of the Act pending further enquiry, and since petitioner has an effective alternative remedy of revision, in view of the ratio in

Pitla Ushanna's case (1 supra) find no grounds to quash the proceedings against the petitioner.

Hence, the Writ Petition is dismissed. No costs.

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18-02-2005

kvrm

To

1. The District Collector (Panchayats), Karimnagar.

2. The Secretary, The Government of A.P. ,
Panchayat Raj and R.D. Department, AP Secretariat,

Hyderabad.

3. 2 CCs to GP for Panchayat Raj and Rural Development, High

court Buildings, Hyderabad, (O.U.T)

4. 2 CD copies.